

BILL ANALYSIS

Senate Research Center

S.B. 1507
By: Harris
Infrastructure Development and Security
8/19/2003
Enrolled

DIGEST AND PURPOSE

S.B. 1507 authorizes an owner of a vehicle, under certain conditions, to use a limited power of attorney to authorize an agent to execute title documents for the owner when the owner is voluntarily transferring title to the vehicle.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 501, Transportation Code, by adding Section 501.076, as follows:

Sec. 501.076. LIMITED POWER OF ATTORNEY. (a) Authorizes an owner who has a contractual option to transfer ownership of a vehicle in full or partial satisfaction of the balance owed on the vehicle, as provided in Section 348.123(b)(5) (Motor Vehicle Installment Sales), Finance Code, to execute a written limited power of attorney that authorizes an agent to complete and sign for the owner, and provide to the transferee, the form to transfer the title under Section 501.071 and the odometer disclosure under Section 501.072 of the Transportation Code, and the other documents necessary to transfer title.

(b) Authorizes the owner to execute the limited power of attorney at the time the owner enters the contract giving the owner the option to transfer the vehicle, or at any time after that date. Authorizes the limited power of attorney to only be used if an owner elects to transfer the vehicle in full or partial satisfaction of the contract, and prohibits use by the holder of the contract as part of the holder's exercise of a remedy for a default by the owner under the contract.

(c) Requires the person named as the agent in the limited power of attorney to meet certain requirements.

(d) Requires the holder of a contract to accompany the power of attorney with a written statement that the vehicle was returned at the election of the owner in full or partial satisfaction of the owner's obligations under the contract and not as the result of the exercise by the holder of the contract of its remedies for default, if a limited power of attorney is used under Subsection (a).

(e) Authorizes a signed and dated written odometer disclosure containing the information described in this subsection to be included on or with the power of attorney if the power of attorney is executed within 120 days before the date of the transfer and is accompanied by the conspicuous written notification described in this subsection. Requires the transferee or agent or the person to whom the vehicle is delivered at the time of the transfer, if an odometer disclosure is not obtained in that manner, to request an odometer disclosure as provided in this subsection. Requires the transferee or agent under the power of attorney or person

receiving delivery of the vehicle, not more than 120 days before the transfer of the vehicle by the owner, to in writing request the owner to provide a signed and dated written statement stating the odometer reading (not to include tenths of a mile) as of the date of the statement, and further stating words to the effect that either: (i) to the best of the owner's knowledge, the odometer reading reflects the actual mileage of the vehicle; (ii) the actual mileage has gone over the odometer's mechanical limits and the odometer reading reflects the amount of mileage in excess of the mechanical limits of the odometer, if the owner knows that to be the case; or (iii) the odometer reading is not the actual mileage, if the owner knows that to be the case. Authorizes the statement to consist of a form in which the agent or transferee or person receiving the vehicle includes the identification of the vehicle and owner and which allows the owner to fill in the odometer reading and mark an applicable box to indicate which of condition (i), (ii), or (iii) is applicable and to date and sign the statement. Requires the transferee or agent or person receiving the vehicle, with the request for the owner's statement, to provide a written notification to the owner to the effect that the owner has a duty under law to state the odometer reading, state which of conditions (i), (ii), or (iii) is applicable, and sign, date, and return the statement and that failing to do so or providing false information may result in fines or imprisonment. Requires the written notification, unless the written notification is delivered to the owner at substantially the same time that the owner is delivering the signed and dated owner's statement, to also state a date by which the owner must provide this information and an address to which it may be delivered. Requires this written notification to the owner to be in bold letters, underlined, or otherwise conspicuous and may be in a separate document or included as part of a form to be used for the owner's statement or in another document relating to the potential transfer. Authorizes the transferee or agent or the person receiving delivery of the vehicle to mail the request and notification to the last known address of the owner or may otherwise send or deliver it to the owner. Authorizes the request and notification, if there are multiple owners of the same vehicle, to be sent to one or more of them and requires it to be sufficient for one owner to sign the statement. Provides that the owner has a duty to return the signed and dated statement as directed in the notification. Requires the agent, in completing the odometer disclosure on the owner's behalf, to identify the same condition (i), (ii), or (iii) provided in the owner's statement, unless the agent knows that the condition identified in the owner's statement is not correct. Provides that the agent will not indicate in the odometer disclosure it completes on the owner's behalf that the odometer reading is not the actual mileage unless either the owner has so indicated in the owner's statement or the agent knows that the owner's statement is not correct. Requires the agent to transmit the owner's statement it receives to the transferee after the title transfer is completed. Provides that the owner's statement received by the transferee under this subsection need not be filed with the filing office for the other title documents, but requires the transferee to retain the owner's statement for a time period and in a similar manner to the retention methods used by a lessor to retain statements under 49 C.F.R. Section 580.8(b), as it may from time to time be amended. Authorizes the transferee to rely upon the agent's odometer disclosure and the owner's statement unless it knows that they are not correct. Provides that a failure by an owner to comply with an obligation under this subsection subjects the owner to the penalties and enforcement provisions of Subchapter H but does not affect the validity of the transfer of title.

(f) Provides that this section does not in any way impair or impede any transfers made through use of a power of attorney prior to the effective date of this section, and requires such transfers to continue to be valid if they comply with the provisions of this section or would otherwise comply with the law in effect prior to the effective date of this section. Provides that this section does not apply to powers of attorney authorized under federal law or regulation that authorize a transferee to act as the agent of the transferor under certain circumstances, or to

powers of attorney otherwise authorized by the law of this State. Provides that this section does not affect the use of powers of attorney to sign, complete and deliver the form to transfer title and other documents necessary to transfer title, including the odometer disclosure, in title transfers other than those described in Subsection (a).

(g) Requires the power of attorney created herein to be limited for the purposes and duration created herein.

SECTION 2. Effective date: September 1, 2003.